

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	No. 3:16-CR-20
v.	)	
	)	Judge Collier
MARK HAZELWOOD,	)	
	)	
Defendant.	)	

**DECLARATION OF BENJAMIN S. WILNER, Ph.D.**

Benjamin Stuart Wilner, Ph.D., pursuant to 28 U.S.C. §1746, hereby declares under penalty of perjury as follows:

1. I am a Ph.D. economist and statistician as well as a Managing Director with the consulting firm of Alvarez & Marsal Disputes and Investigations, LLC (“Alvarez & Marsal”). My office is located at 540 West Madison Street, Chicago, Illinois 60661.

2. I have a Bachelor of Arts degree, Magna cum Laude with Distinction in Major in Mathematics and Economics from the University of Pennsylvania as well as a General Course Degree in Mathematics and Statistics from the London School of Economics. I was awarded a Ph.D. in Managerial Economics and Decision Science from the Kellogg Graduate School of Management at Northwestern University. Managerial Economics and Decision Science emphasizes the study of consumer and company decision making in a variety of economic environments.

3. I have served as a professor of economics, finance and statistics in the business schools at the University of Michigan, the University of Iowa, Northwestern University and the Helsinki School of Economics. I received multiple teaching awards at those institutions.

4. My research has been published in the peer reviewed academic journals including the *Journal of Finance*, the leading academic journal in finance. I have been awarded research grants from multiple universities as well as from the United States Government's National Science Foundation. My research has been extensively cited. For example, the former President of the University of Chicago relied on my undergraduate thesis as the theoretical basis for one of his published research papers. I also served as a referee for multiple academic journals and textbooks.

5. As an undergraduate, I spent three years as a research assistant to the 1980 Nobel Prize winner Lawrence R. Klein. Dr. Klein was awarded the Nobel Prize in Economics for economic and statistical forecasting. As a graduate student, I studied under Roger Myerson, who won the 2007 Nobel Prize in Economics for his analysis of decision making, and Dale Mortensen, who won the 2010 Nobel Prize in Economics for his study of labor markets.

6. I have performed economic and statistical analyses in a great variety of engagements, including financial analysis, contract losses, a wide range of class action, intellectual property and lost income matters. In addition to testifying in a variety of matters, I also serve as a business consultant. For example, I have been retained by the United States Department of Homeland Security to economically and statistically analyze various proposed policies. For one such project, I received a special commendation from the Commissioner of United States Customs and Border Protection for revising a \$2.5 billion annual tariff. A copy of my curriculum vitae is annexed as Exhibit 1.

7. My firm has been engaged by Walden Macht & Haran LLP, counsel to Mark Hazelwood, and I have been asked to review and opine on the context and the impact the stipulated loss amount would have on company decision making. I understand that the Government and the defense have stipulated to a loss range of \$3,500,001 to \$5,000,000 (the “Stipulated Loss Range”) for purposes of sentencing. Stip. No. 1, Sept. 18, 2018, ECF No. 678-1. For the purpose of my review, I analyzed the likely impact the Stipulated Loss Range’s effect would have on 78 customers (the “Customers”) listed in the Government’s Notice of No Objection to the Presentence Investigation Report for Defendant Hazelwood, dated August 1, 2018 (ECF No. 678-1 and the “Aug. 1 List”) over the course of the five-year period between February 2008 through January 2013 (the “Five-Year Scope”).

8. For the calculations presented below, I assumed conservatively that the loss amount attributable to Mr. Hazelwood is the high end of the Stipulated Loss Range (\$5,000,000). Based on this, each of the 78 Customers would have been impacted, on average, by a loss of \$12,821 annually. I arrived at this figure by dividing \$5,000,000 of losses by 78 Customers, and dividing that amount by 5 years, which generates \$12,821 per Customer per year (the “Average Annual Customer Loss Amount based on the Five-Year Scope”).

9. I averaged the losses this way because I understand that the Stipulated Loss Range does not specify Customer-by-Customer losses or year-by-year losses, and that the loss figures contained on the Aug. 1 List were in dispute and are no longer operative. Accordingly, for the purpose of my calculation of Customer averages, the 78 Customers are treated as equally sharing in the loss. This assumption is used throughout all the averages calculations in this Declaration.

10. Even though the loss figures contained on the Aug. 1 List are no longer operative, I understand that the Government alleged in Gov. Ex. 5079-A that each Customer might not have

suffered losses during the entire Five-Year Scope despite the fact that they could have purchased diesel fuel from Pilot Flying J throughout that entire period. The average period of loss (which the Government referred to as the “Attribution Months”) listed on Gov. Ex. 5079-A is 29.13 months, or just under 2.5 years, per Customer. (See Exhibit 2) Conservatively focusing on this average attribution duration rather than the entire Five-Year Scope, the Average Annual Customer Loss is \$26,408.

11. To put these loss amounts into context, I analyzed the high end of the Stipulated Loss Range and the Average Annual Customer Loss Amounts relative to four different financial metrics that I discuss below. These metrics are:

- a. The Customers’ fuel purchases from Pilot Flying J;
- b. Information on the Customers’ two largest expense categories;
- c. The Customers’ annual revenue; and
- d. Total discounts paid to these customers.

12. With each of these metrics, the Stipulated Loss Amount and the Average Annual Customer Loss Amounts are insignificant when compared to the Companies’ overall financials and would not significantly impact their decision making with regards to how they operated their business.

#### **Metric 1: Loss as a Percentage of Fuel Expenses**

13. I have reviewed documents in this case that list the amount of fuel purchased by each of the 78 Customers on the Aug. 1 List. I determined that over the course of the five-year period between February 2008 through January 2013 (the “Five-Year Scope”), these Customers collectively purchased approximately 487 million gallons of diesel fuel from Pilot Flying J. They

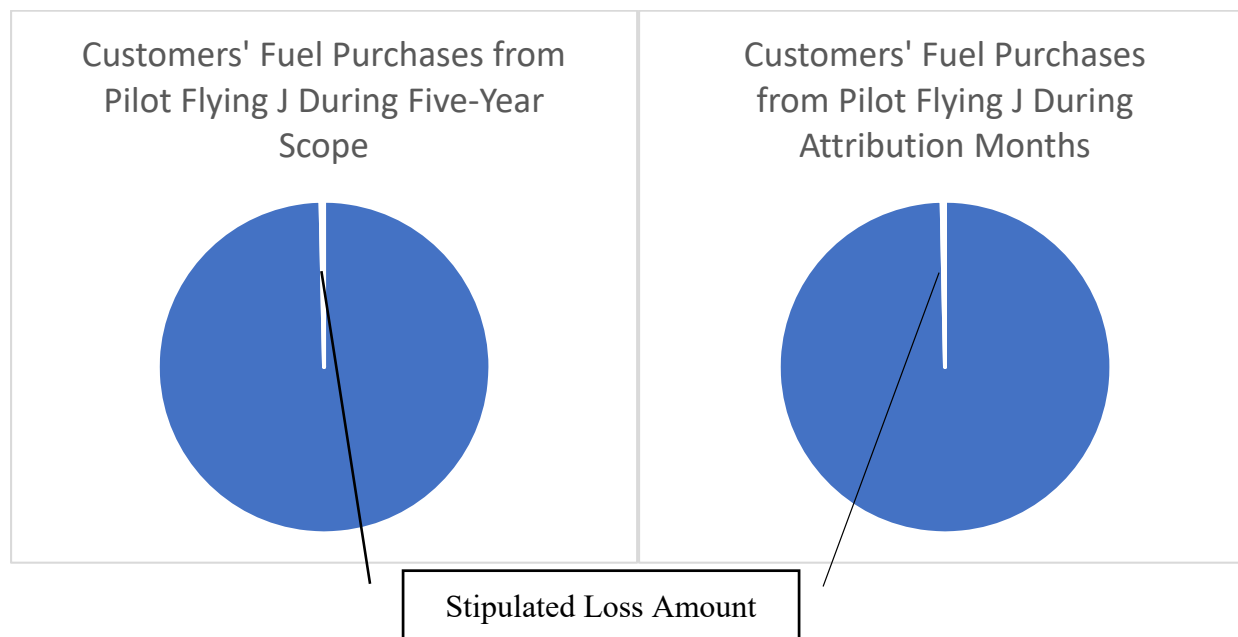
purchased approximately 364 million gallons of diesel fuel from Pilot Flying J during the Attribution Months listed on Gov. Ex. 5079-A. (See Exhibit 2) These figures do not include fuel purchased from other sources.

14. I also have reviewed documents in this case to determine the typical price of diesel fuel during the Five-Year Scope. Throughout that period, I calculated that the Oil Price Information Service (“OPIS”) wholesale price of diesel fuel averaged \$3.07 (the “Five-Year OPIS Average”). I determined the Five-Year OPIS Average by (1) calculating the average OPIS price for each terminal for each year of 2008, 2009, 2010, 2011, and 2012, (2) using these terminal averages to calculate the overall annual average OPIS price, and (3) adding the five overall annual averages and dividing by five.

15. One could estimate the Customers’ total diesel fuel purchases from Pilot Flying J during the Five-Year Scope (or during the Attribution Months) by multiplying their gallon purchases by the average wholesale price of fuel. Such a multiplication shows that the Customers’ total diesel fuel purchases were approximately \$1.495 billion during the Five-Year Scope and \$1.116 billion during the Attribution Months. These figures are conservative as the calculations utilize the wholesale price of diesel fuel and I understand that most customers agreed to pay greater than the wholesale price.

16. Therefore, the high end of the Stipulated Loss Range (\$5,000,000) is only roughly one-third of one percent (0.33%) and less than one-half of one percent (0.45%) of the Customers’ total diesel fuel purchases from Pilot Flying J during the Five-Year Scope and during the Attribution Months, respectively. These percentages are graphically represented in Figures 1a and 1b below. Their insignificant magnitude would be even lower if the Customers’ fuel purchases from other sources were taken into account and if non-wholesale prices were utilized.

**Figure 1a & 1b**



17. These percentages could also be calculated on a per Customer year basis and would generate identical results. Given that \$1.495 billion of diesel fuel was purchased from Pilot Flying J during the Five-Year Scope, this equates to approximately \$299 million in purchases per year on average. As there are 78 Customers, each Customer purchased \$3.83 million in diesel fuel from Pilot Flying J annually on average. Alternatively, given that approximately \$1.116 billion of diesel fuel was purchased from Pilot Flying J during the average 29.13 Attribution Months, each Customer purchased an annual average of \$5.90 million in diesel fuel from Pilot Flying J during the Attribution Months. (\$1.116 billion divided by 78 customers divided by 29.13 months times 12 months in a year).

18. The Average Annual Customer Loss Amounts are \$12,821 and \$26,408 per Customer per year depending upon the applicable period,  $\$12,821 / \$3.83 \text{ million} = 0.33\%$  and  $\$26,408 / \$5.90 \text{ million} = 0.45\%$ , reiterating the small nature of the Stipulated amount in context.

19. Not only did I calculate loss amounts relative to Customer fuel expenditures on average, but I also calculated these percentages on a Customer-by-Customer basis as shown in Exhibit 3. As actual Customer-by-Customer loss amounts are not available because they were not stipulated to, I conservatively utilized the Government's alleged SVRS loss amounts and Attribution Months as listed in Gov. Ex. 5079-A. Because the total SVRS loss in that Government Exhibit is more than double even the high end of the Stipulated Loss Range, the percentages I calculate in my Exhibit 3 would also be expected to be larger than the percentages based on averages stated above.

20. While Exhibit 3 contains information on all 78 Customers, I highlight the percentages for some Customers below:

- a. Decker and B-T are related companies. The Government alleged that combined these two companies suffered \$1.06 million in SVRS losses. Combined, the two companies purchased more than 20 million gallons during the Attribution Months, at an estimated cost of just over \$61.5 million. This yields a 1.73% SVRS-to-fuel expenditures percentage.
- b. The Government alleged \$56,564 in SVRS losses for Queen Transportation. During the Attribution Months, Queen purchased approximately 1.4 million gallons of fuel, at a cost of approximately \$4.3 million. This yields a 1.33% SVRS-to-fuel expenditures percentage.
- c. The Government alleged \$214,513 in SVRS losses for Equity Transportation. During the Attribution Months, Equity purchased approximately 16.4 million gallons of fuel, at a cost of approximately \$50.3 million. This yields a 0.43% SVRS-to-fuel expenditures percentage.

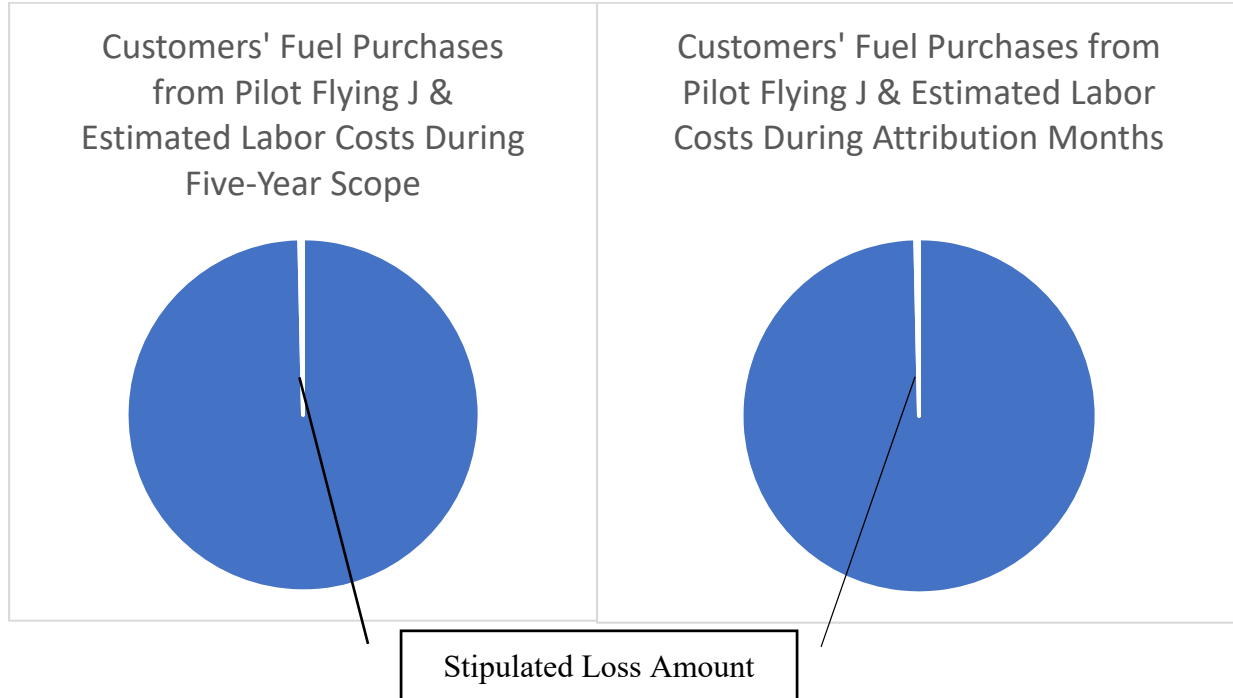
- d. The Government alleged \$151,152 in SVRS losses for Compass Funding Solutions. During the Attribution Months, Compass purchased approximately 2.2 million gallons of fuel, at a cost of approximately \$6.7 million. This yields a 2.27% SVRS-to-fuel expenditures percentage.
- e. The Government alleged \$415,364 in SVRS losses for G&P Trucking. During the Attribution Months, G&P purchased approximately 11.8 million gallons of fuel, at a cost of approximately \$36.2 million. This yields a 1.15% SVRS-to-fuel expenditures percentage.

**Metric 2: Loss as a Percentage of the Customers' Two Largest Expense Categories**

21. I understand that for a typical trucking company the cost of labor (*i.e.*, truck drivers) is greater than the cost of fuel. Assuming conservatively that the cost of labor is equal to the cost of fuel for the Companies, the high end of the Stipulated Loss Range would only be one-sixth of one percent (0.167%) or roughly one quarter of one percent (0.224%) of the total for these two expenses paid by typical companies based on the Five-Year Scope and Attribution Months, respectively. Figures 2a and 2b graphically represent these percentages. Similar to before, these percentages would be even lower if 1) fuel purchases from other sources were taken into account, 2) my calculations accounted for labor costs exceeding fuel expenditures, or 3) I utilized lower amounts within the Stipulated Loss Range.



**Figures 2a & 2b**



22. The difficulty one might have in discerning the differences, which do exist, between Figures 1a, 1b, 2a and 2b demonstrate the insignificant nature of the Stipulated Loss Amounts at issue.

**Metric 3: Loss as a Percentage of the Customers' Annual Revenue**

23. I attempted to identify the annual revenue of the 78 Customers. Despite the fact that most of these companies are privately owned and are not required to publicly produce financial information, my firm has a special division called the Insight Center that specializes in obtaining such information. Utilizing data from financial information companies like Standard & Poor's and Dun & Bradstreet, the Insight Center assisted me in obtaining revenue information for 52 Customers.

24. I then examined the revenue data and identified three significant outliers whose primary line of business was not trucking: Kohler, Regal Beloit Logistics LLC, and TTI Inc. So

as to conservatively not bias my calculations with a significant amount of non-trucking revenue, the revenue of these three companies were excluded from my calculations.

25. The average annual revenue for the 49 remaining customers is approximately \$168.6 million.

26. Given our knowledge of the financial information companies' data gathering techniques, I understand the Customers where Standard & Poors and Dun & Bradstreet had no data likely were smaller than the 52 Customers for which data could be obtained. Therefore, in an overabundance of caution, I separately calculated another average annual revenue figure with the assumption that such Customers all had ZERO revenue.<sup>1</sup> Using this assumption, as shown in Exhibit 4, the resulting average annual revenue is approximately \$111.6 million.

27. Conservatively assuming that the loss amount attributable to Mr. Hazelwood is the high end of the Stipulated Loss Range (\$5,000,000), which implies that Customers were harmed by \$12,241 (or \$26,408) per year, these losses are:

- a. 0.0076% (or 0.0157%) of Customer revenue on average, using an average annual revenue of approximately \$168.6 million. To put this percentage in context, these losses are the functional equivalent of someone who earns \$131,000 (or \$64,000) a year losing \$10.
- b. 0.0115% (or 0.0237%) of Customer revenue on average, using the extremely conservative average annual revenue of approximately \$111.6 million. To put this percentage in context, these losses are the functional equivalent of someone who earns \$87,000 (or \$42,000) a year losing \$10.

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<sup>1</sup> For the purposes of this calculation, I included B-T with Decker.

28. Not only did I calculate loss amounts relative to annual average revenue, but I also calculated these percentages on a Customer-by-Customer basis as shown in Exhibit 4. As Customer-by-Customer loss amounts are not available because they were not stipulated to, I conservatively utilized the Government's alleged SVRS loss amounts and the revenue figures that my firm collected. Because the total SVRS loss in that Government Exhibit is more than double even the high end of the Stipulated Loss Range, the percentages I calculate in my Exhibit 4 would also be expected to be larger than the percentages based on averages stated above.

29. While Exhibit 4 contains information on all Customers, I highlight the percentages for some customers below:

- a. Store & Haul Inc. had annual revenue of \$5.05 million. This Customer had the smallest average annual SVRS loss amount. The Government alleged that Store & Haul had \$8,997 in SVRS losses over its 30 Attribution Months. Therefore, Store & Haul's average annual SVRS loss was \$3,599, or approximately 0.07% of its annual revenue.
- b. Decker (including B-T) had annual revenue of approximately \$135 million. The Government alleged that Decker and its affiliate, B-T, had \$1.06 million in combined SVRS losses over its 58 Attribution Months. Therefore, Decker's average annual SVRS loss was approximately 0.16% of its annual revenue.
- c. G&P Trucking had annual revenue of approximately \$99 million. The Government alleged that G&P had \$415,364 in SVRS losses over its 54 Attribution Months. Therefore, G&P's average annual loss was approximately 0.09% of its annual revenue.

d. Equity Transportation had annual revenue of approximately \$64.25 million.

The government alleged that Equity had \$214,513 in SVRS losses over its 60 Attribution Months. Therefore, Equity's average annual loss was approximately 0.07% of its annual revenue.

#### **Metric 4: Loss as a Percentage of Total Rebates Paid**

30. The 78 Customers received approximately \$82 million in discounts from Pilot Flying J during the Five-Year Scope. This implies that Pilot Flying J paid each Customer an average of \$209,195 in discounts annually. This implies that the Stipulated Losses were 6.13% and 12.62% of the discounts the Customers actually received for the Five-Year Scope and Attribution Months, respectively.

#### **Impact of these Loss Amounts In Context**

31. The aforementioned calculations demonstrate that the Stipulated Loss Amount is only a fraction of one percent of various financial metrics that are important to the Customers.

32. Based upon my over 25 years of experience studying company behavior in a wide variety of contexts, including that of trucking companies, this relatively small adjustment to the Companies' financials would not significantly impact their decision making with regards to how they operated their business. In other words, the Customers' output would not significantly change due to the relatively insignificant impact the Stipulated Loss Amount had on them; they would not carry significantly fewer loads and have fewer trucks and/or truckers in their fleet because of the Stipulated Losses. The Customers likely would be able to absorb \$12,821 or \$26,408 in annual losses without secondary effects on the health or operations of the company. This is especially

true as the Customers' revenue likely would decrease if they diminished the number of trucks or truckers in their fleets.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 24<sup>th</sup> day of September, 2018.

A handwritten signature in cursive script, appearing to read "Ben Wilner".

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Benjamin S. Wilner, Ph.D.

## Exhibit 1



**Benjamin S. Wilner, Ph.D.**

Managing Director – Disputes and Investigations

[bwilner@alvarezandmarsal.com](mailto:bwilner@alvarezandmarsal.com)

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Suite 1800  
Chicago, IL 60661  
Tel: (312) 470-8450

**Education**

Kellogg Graduate School  
of Management,  
Northwestern University  
Ph.D.  
Managerial Economics  
and Decision Science

University of  
Pennsylvania  
BA magna cum laude  
with distinction in major  
Economics &  
Mathematics

London School of  
Economics  
General Course Degree  
Mathematics & Statistics

Dr. Benjamin Wilner has more than twenty years of advisory, valuation, and general economic & financial services experience as a consultant, academic & testifier. He is a Ph.D. economist and statistician who regularly serves as a consultant and testifying expert witness on financial damages, economic & statistical issues.

Dr. Wilner's disputes experience encompasses many industries and a broad range of single plaintiff, class action and criminal disputes including antitrust liability & damages, business interruption, business valuations, economic analyses, intellectual property, labor, lost income, product liability, statistical data analyses, and other corporate and litigation related matters.

In his consulting practice, Dr. Wilner advises corporations and governments on economic and statistical issues. For example, in addition to redesigning statistical aspects of an automobile manufacturer's warranty process, Dr. Wilner received a special commendation from the Commissioner of US Customs & Border Protection for building an economic model to restructure a \$2.5 billion tariff, which has won praise by a Cabinet member, Congressional officials, and the industry.

Prior to joining Alvarez & Marsal, Dr. Wilner worked at other multinational consulting firms. He also has been a professor in the business schools at the University of Michigan, University of Iowa, Northwestern University, and the Helsinki School of Economics. Dr. Wilner was a research assistant for a Nobel Prize-winning economist and studied under two other Nobel Laureates. His work has been published in leading academic journals and textbooks as well as regularly cited in the academic and popular press. Dr. Wilner won several awards for teaching and research including a grant from the National Science Foundation.

**Testimony before a Trier of Fact**

- Arbitration Testimony in Topix Media Lab, LLC, v. Athlon Sports Communications, Inc., American Arbitration Association, November 2017
- Trial Testimony in Syngenta Crop Protection, LLC v. Willowood, LLC, Willowood USA, LLC, Willowood Azoxystrobin, LLC, and Willowood Limited, United States District Court, Middle District of North Carolina, September 2017
- Trial Testimony in Christine Ekallipse Moulouki v. Marie Paule Epee and Eric Ngado Epee, United States District Court, Northern District of Illinois, Eastern Division, July 2017
- Trial Testimony in The People of the State of Illinois v. Ronald A. Pieri, State of Illinois, Circuit Court of Lake County, October 2015
- Trial Testimony in Sleepy's LLC, v. Select Comfort Wholesale Corporation, et al., United States District Court, Eastern District of New York, May – June 2012 & July 2015
- Trial Testimony in Grater, Inc., and James T. Zavacki v. Kevin T. Keating and Keating & Shure, Ltd., State of Illinois, Circuit Court of Cook County, March 2015
- Trial Testimony in Think Tank Software Development Corporation et al. v. Chester Inc., et al., State of Indiana, County of Porter, March 2014
- Trial Testimony in Sharon P. Clark, Commissioner of the Kentucky Department of Insurance, in her Capacity as Rehabilitator of AIK Comp v. TransAmerica Insurance Company and TIG Insurance Company, Commonwealth of Kentucky, Franklin Circuit Court, Division Two, October 2012
- Trial Testimony in Mario Vara v. Integra Properties, Inc., Abe Polatsek, S&M Corporation and Michael Strick, State of Illinois, Circuit Court of Cook County, July 2011
- Trial Testimony in Indeck Power Equipment Company v. Professional Power Products, et al., State of Illinois, Circuit Court of Cook County, April 2010
- Trial Testimony in Saint-Gobain Autover USA, Inc., et al. v. Xinyi Glass North America, Inc., et al., United States District Court, Northern District of Ohio, Eastern Division, November 2009
- Trial Testimony in NSM Music Group, Ltd. and NSM Music, Inc. v. Synergy Law Group and Arthur E. Mertes, State of Illinois, Circuit Court of Cook County, June 2009





- Arbitration Testimony in Global Link Logistics, Inc., GLL Holdings, Inc., and Golden Gate Logistics, Inc., v. Olympus Growth Fund III, L.P., et al., American Arbitration Association, October 2008
- Arbitration Testimony in Sarah Sanford v. Society of Actuaries & Bruce Schobel, American Arbitration Association, August 2008
- Hearing Testimony in Chinitz v. Chinitz, State of Michigan, Circuit Court for the County of Oakland, May 2008
- Arbitration Testimony in BP Products North America, Inc. v. Laidlaw Educational Services, JAMS Arbitration, October 2007

### **Deposition Testimony**

- Teresa Elward, et al. v. Electrolux Home Products, Inc., United States District Court, Northern District of Illinois, Eastern Division, August 2018
- Roger Coffelt, Jr., et al. v. The Kroger Co., The Pictsweet Company and CRF Frozen Foods LLC., et al., United States District Court, Central District of California, Riverside Division, May 2018
- Rick Lindsey v. Officer Michael Orlando, Officer Jamie Falardeau, the City of Chicago, Delta Airlines, Thomas Steinfels, and Marcella Pirvu, United States District Court, Northern District of Illinois, Eastern Division, March 2018
- Syncora Guarantee Inc. v. Alinda Capital Partners, LLC, American Roads LLC, Macquarie Securities (USA) Inc., and John S. Laxmi, Supreme Court of the State of New York, County of New York, December 2017
- Kelley Antekeier v. Laboratory Corporation of America, United States District Court, Eastern District of Virginia, Alexandria Division, November 2017
- Topix Media Lab, LLC, v. Athlon Sports Communications, Inc., American Arbitration Association, October 2017
- Christine Ekallipse Moulouki v. Marie Paule Epee and Eric Ngado Epee, United States District Court, Northern District of Illinois, Eastern Division, July 2017
- Syngenta Crop Protection, LLC v. Willowood, LLC, Willowood USA, LLC, Willowood Azoxystrobin, LLC, and Willowood Limited, United States District Court, Middle District of North Carolina, September 2016
- In re: Hardieplank Fiber Cement Siding Litigation, United States District Court, District of Minnesota, February 2016



- In re: Atlas Roofing Corporation Chalet Shingle Products Liability Litigation, United States District Court, Northern District of Georgia, December 2015
- Churchill Downs Incorporated v. Illinois Department of Revenue, Brian Hamer, as Director of The Illinois Department of Revenue, and Dan Rutherford as Treasurer of the State of Illinois, State of Illinois, Circuit Court of Cook County, August 2014
- Victor Tracy, Power of Attorney for Anne Tracy and Victor Tracy, Individually v. Robert K. Erickson, M.D., Lake County Neurosurgery, LLC, Advocate Condell Medical Center, State of Illinois, Circuit Court of Cook County, July 2014
- Marylee Arrigo v. Link Stop, Inc., et al., United States District Court, Western District of Wisconsin, October 2013
- Andrew C. Dillon v. Transportation Solutions Group, LLC, Freight Exchange of North America, LLC, 3PLogic, LLC, Transportation Solutions Enterprises, LLC and Todd Berger, United States District Court, Northern District of Illinois, Eastern Division, September 2013
- Grater, Inc., and James T. Zavacki v. Kevin T. Keating and Keating & Shure, Ltd., State of Illinois, Circuit Court of Cook County, September 2013
- Think Tank Software Development Corporation et al. v. Chester Inc., et al., State of Indiana, County of Porter, February 2012 & October 2009
- Continental Datalabel, Inc. v. Avery Dennison Corporation, United States District Court, Northern District of Illinois, Eastern Division, December 2011
- Ross v. Ross, Circuit Court of the Nineteenth Judicial Circuit, Waukegan, Lake County, Illinois, September 2011
- In re: IKO Roofing Shingle Products Liability Litigation, United States District Court, Central District of Illinois, Urbana Division, August 2011
- Jessica Ellen Legens, et al. v. Mark Alan Ikerman and Manheim Services Corporation, d/b/a Manheim Gateway St. Louis, et al., State of Illinois, Circuit Court of Madison County, November 2010
- Ronald Seymour v. Wausau Signature Agency, et al., United States District Court, Northern District of Illinois, Eastern Division, May 2010
- Neil Simon and Clarissa Simon v. Heritage Title Company, State of Illinois, Circuit Court of Cook County, December 2009
- Mario Vara v. Integra Properties, Inc., Abe Polatsek, S&M Corporation and Michael Strick, State of Illinois, Circuit Court of Cook County, December 2009



- Saint-Gobain Autover USA, Inc., et al. v. Xinyi Glass North America, Inc., et al., United States District Court, Northern District of Ohio, Eastern Division, October 2009
- Sleepy's LLC, v. Select Comfort Wholesale Corporation, et al., United States District Court, Eastern District of New York, July 2009
- Indeck Power Equipment Company v. Professional Power Products, et al., State of Illinois, Circuit Court of Cook County, September 2008
- NSM Music Group, Ltd. and NSM Music, Inc. v. Synergy Law Group and Arthur E. Mertes, State of Illinois, Circuit Court of Cook County, May 2008
- Maria Belbis, et al. v. County of Cook, United States District Court, Northern District of Illinois, Eastern Division, January 2008
- Bucyrus International, Inc. v. Price Erecting Company and Kentucky Rebuild Corp., State of Wisconsin, Circuit Court of Milwaukee County, October 2007
- Mark A. Sindecuse, M.D. v. Dean M. Katsaros, Katsaros & Associates, and CIB Marine Bancshares, Inc., United States District Court, Eastern District of Missouri, Eastern Division, June 2007
- Quentin Bullock et al., v. Michael Sheahan and Cook County, United States District Court, Northern District of Illinois, Eastern Division, September 2006

### **Awards**

- National Science Foundation Grant, 1998
- Old Gold Research Fellowship, University of Iowa, Summer 1997
- Outstanding Professor, University of Iowa Panhellenic Council, Fall 1996
- Doctoral Teaching Award, Kellogg Graduate School of Management, 1994

### **Professional Memberships**

- American Bar Association (Associate Status)
- American Statistical Association
- Credit Research Foundation (Research Fellow)



### **Publications**

- “The U.S. Federal Crop Insurance Program in 2012 and Beyond,” (with Frank Schnapp) Trébol, July 2013
- “Profitability & Effectiveness of the Federal Crop Insurance Program,” (with Laura Carolan & Frank Schnapp), Crop Insurance Today, 44(2), pp. 28 – 32, May 2011
- “Economic and Accounting Analyses in Post-Acquisition Disputes,” (with Allen Burt and Matthew Paye) The SRR Journal, Spring 2010
- “Statistical Analyses Relation to Reductions In Force,” The SRR Journal, Spring 2009
- “Antitrust Analyses in Horizontal Mergers,” (with Thomas R. Jackson) The SRR Journal, Fall 2007
- “Options Backdating: The Latest Corporate Imbroglia,” (with Idris Raja) The SRR Journal, Spring 2007 (reprinted on mondaq.com)
- “Multi-Unit Auctions: A Comparison of Static and Dynamic Mechanisms” (with Alejandro Manelli and Martin Sefton), Journal of Economic Behavior and Organization, 61(2), pp. 304 – 323, October 2006
- “The Exploitation of Relationships in Financial Distress: The Case of Trade Credit,” Journal of Finance, February 2000
- “Everything you always wanted to know about discounting, but were afraid to ask: A Finance 101 Primer,” Credit and Financial Management Review, Summer 1999
- “Paying Your Bills: The Effect of Corporate Quality” September 1996
- Refereed for the American Economic Review, American Real Estate Society, Journal of Finance, the Journal of Business, Finance and Accounting, and John Wiley Publishers



**Exhibit 2 - Total Gallons and Fuel Purchases**

Customer	Total Gallons - 2/2008 - 1/2013	Number of Attribution Months	Total Gallons - Attribution Months	Source
A G Trucking	5,672,196	31	3,435,934	PFJ ATTRIB3_000000036
A T A Transportation	1,300,719	14	809,890	PFJ ATTRIB3_000000049
Amerifreight	12,523,189	1	316,301	PFJ ATTRIB3_000000276
Apex Express Inc	2,197,550	15	329,173	PFJ ATTRIB3_000000304
Area Transportation Company	11,329,085	43	10,878,877	PFJ ATTRIB3_000000324
AV Transportation	956,275	24	785,734	PFJ ATTRIB3_000000366
B P Express Inc	8,115,191	40	6,439,402	PFJ ATTRIB3_000000391
Beelman Truck Co	3,921,115	41	3,309,654	PFJ ATTRIB3_000000524
Benefit Trucking	5,345,480	24	4,022,452	PFJ ATTRIB3_000000551
Bison Transport	9,519,972	13	3,939,730	PFJ ATTRIB3_000000604
Black Horse Carriers	6,329,606	41	6,329,606	PFJ ATTRIB3_000000615
B-T Inc (Part of Decker)	2,499,213	58	2,437,716	PFJ ATTRIB3_000000452
Bulkmatic Transport	3,722,369	5	772,082	PFJ ATTRIB3_000000661
Buske Lines Inc (Purchased by Gordon Trucking)	6,345,783	34	6,270,763	PFJ ATTRIB3_000000679
C & K Trucking	1,738,647	28	1,147,898	PFJ ATTRIB3_000000710
C D N Logistics Inc	12,310,384	44	10,907,460	PFJ ATTRIB3_000000745
Cassen Transport Co	6,117,630	45	4,772,390	PFJ ATTRIB3_000000893
Central Transport, LLC (Fleet Fuel)	15,839,654	49	12,203,160	PFJ ATTRIB3_000000946, PFJ ATTRIB3_000000948
Commonwealth Express	10,531,159	16	3,302,621	PFJ ATTRIB3_000001025
Compass Funding Solutions	2,945,735	44	2,169,128	PFJ ATTRIB3_000001042
Dana Transport	11,524,669	12	3,158,557	PFJ ATTRIB3_000001150
Decker	17,783,877	58	17,610,580	PFJ ATTRIB3_000001247
Dick Lavy	6,184,474	60	6,184,474	PFJ ATTRIB3_000001321
Dillon Transport Inc	8,148,028	49	7,200,778	PFJ ATTRIB3_000001341
DOT Transportation	7,613,733	30	7,613,733	PFJ ATTRIB3_000001370
Doug Marquardt/Skyway Transportation	2,979,199	24	2,059,463	PFJ ATTRIB3_000001450
Dynamic Transit	2,922,587	14	2,133,729	PFJ ATTRIB3_000001494
Equity Transportation	16,374,723	60	16,374,723	PFJ ATTRIB3_000001534, PFJ ATTRIB3_000001536
Falcon Transport Co	30,029,682	60	30,029,682	PFJ ATTRIB3_000001608
First Choice Logistics	1,878,028	14	746,343	PFJ ATTRIB3_000001621
Foltz Trucking Inc	3,551,581	21	2,697,509	PFJ ATTRIB3_000001669
Fremont Contract Carriers	1,329,299	12	1,123,166	PFJ ATTRIB3_000001720
G & P Trucking	13,503,153	54	11,795,859	PFJ ATTRIB3_000001729
Grand Island Express	5,754,217	10	3,347,233	PFJ ATTRIB3_000001762, PFJ ATTRIB3_000001764
Gretna Enterprises LLC	1,432,889	20	1,344,172	PFJ ATTRIB3_000001782, PFJ ATTRIB3_000001780
Halvor Lines Inc	13,431,446	11	2,955,339	PFJ ATTRIB3_000001804
HC Parrish	2,605,765	17	1,092,795	PFJ ATTRIB3_000001902
Hill Transportation Inc	4,843,400	16	1,369,140	PFJ ATTRIB3_000001948
Holland Transport	14,559,295	52	11,372,400	PFJ ATTRIB3_000001954, PFJ ATTRIB3_000001952
Honey Transport	6,230,286	11	3,186,277	PFJ ATTRIB3_000001985
Iowa Motor Truck	3,004,533	21	1,676,042	PFJ ATTRIB3_000002050
JKC Trucking	5,245,948	9	2,728,438	PFJ ATTRIB3_000002196
J-Mar Enterprises	3,625,435	41	3,194,178	PFJ ATTRIB3_000002125
JTL Trailers/Carriers	2,579,365	45	1,944,841	PFJ ATTRIB3_000002281
K&S Transport Services	446,314	10	346,667	PFJ ATTRIB3_000002374
Kohler	3,338,784	41	2,902,718	PFJ ATTRIB3_000002450
LEASEWAY AUTO TRANSPORT (PTS Inc)	1,428,182	5	1,428,182	PFJ ATTRIB3_000002565
M Brothers/Safe Logistics	478,333	4	243,648	PFJ ATTRIB3_000002593
Madden	5,824,806	51	5,180,554	PFJ ATTRIB3_000002629

**Exhibit 2 - Total Gallons and Fuel Purchases**

Customer	Total Gallons - 2/2008 - 1/2013	Number of Attribution Months	Total Gallons - Attribution Months	Source
Merit Transportation Co Inc	1,406,058	7	1,406,058	PFJ ATTRIB3_000002763
Midwest Logistics Systems	30,486,938	48	29,843,421	PFJ ATTRIB3_000002841
Midwest Refrigerated	2,189,978	38	1,926,254	PFJ ATTRIB3_000002864
MM Global/M&M Transport	2,412,641	28	2,069,844	PFJ ATTRIB3_000002928
Mobility Network	2,482,920	24	2,340,136	PFJ ATTRIB3_000002965
Nationwide Transportation Inc	5,470,975	24	2,499,313	PFJ ATTRIB3_000003047
Paragon Motor Lines Inc	820,337	31	820,337	PFJ ATTRIB3_000003217
Pohl Transportation Inc	8,244,882	49	6,725,606	PFJ ATTRIB3_000003306
Prima Express Inc	1,931,285	22	1,487,001	PFJ ATTRIB3_000003359
Progressive Transportation	1,550,643	17	1,296,269	PFJ ATTRIB3_000003375
Queen Transportation	1,926,646	33	1,388,826	PFJ ATTRIB3_000003457
R&L Carriers, Wilmington, OH	4,789,661	60	4,789,661	PFJ ATTRIB3_000003531
Regal Beloit Logistics LLC (Marathon)	2,261,656	47	1,741,093	PFJ ATTRIB3_000003609
Rite Logistix (Kozy's)	5,859,114	17	4,233,025	PFJ ATTRIB3_000003638
Riverside	14,303,788	31	10,923,521	PFJ ATTRIB3_000003652
Roger's Trucking (Tankstar)	9,624,151	22	6,116,667	PFJ ATTRIB3_000003719
Rubber Duckling	1,789,251	24	1,420,295	PFJ ATTRIB3_000003786
Ryder Intergrated Logistics/Ryder Truck Rental Inc	6,261,744	2	1,338,085	PFJ ATTRIB3_000003874
Sharkey/Sysco/Shipper's Rental	18,898,422	31	17,479,703	PFJ ATTRIB3_000003984
Smith Trucking Inc.	1,605,476	8	1,266,236	PFJ ATTRIB3_000004100
Store & Haul Inc	1,258,978	30	496,935	PFJ ATTRIB3_000004233
Sue Vinjie	2,416,127	38	2,290,407	PFJ ATTRIB3_000004240
Transco Lines	10,661,133	10	4,136,657	PFJ ATTRIB3_000004425
Tri-Hi Transportation	3,656,651	35	3,385,750	PFJ ATTRIB3_000004526
Trio Trucking Inc	2,870,235	41	2,423,694	PFJ ATTRIB3_000004607
TTI Inc.	2,771,605	27	2,139,710	PFJ ATTRIB3_000004722
W N Morehouse Truck Line Inc	3,760,179	47	2,781,870	PFJ ATTRIB3_000004723
Warren Transport	6,772,882	31	6,772,882	PFJ ATTRIB3_000004756
Wiseway Motor Freight Inc	446,849	8	425,675	PFJ ATTRIB3_000004880
Average		29.13		
Total Gallons	486,844,190		363,586,123	
Five-Year OPIS Average (2008-2012)	3.07		3.07	
	<b>1,494,611,664</b>		<b>1,116,209,396</b>	

**Exhibit 3 - SVRS Losses as a Percentage of Fuel Expenditures**

Customer	SVRS Losses <sup>1</sup>	Total Gallons - Customer Specific Loss Period	Estimated Fuel Expenditures	SVRS Losses as a Percentage of Fuel Expenditures
A G Trucking	25,005	3,435,934	10,548,317	0.24%
A T A Transportation	27,752	809,890	2,486,362	1.12%
Amerifreight	6,733	316,301	971,045	0.69%
Apex Express Inc	6,028	329,173	1,010,562	0.60%
Area Transportation Company	81,570	10,878,877	33,398,152	0.24%
AV Transportation	24,760	785,734	2,412,203	1.03%
B P Express Inc	201,303	6,439,402	19,768,964	1.02%
Beelman Truck Co	16,878	3,309,654	10,160,639	0.17%
Benefit Trucking	164,252	4,022,452	12,348,929	1.33%
Bison Transport	221,039	3,939,730	12,094,970	1.83%
Black Horse Carriers	224,853	6,329,606	19,431,889	1.16%
B-T Inc (Part of Decker)	139,484	2,437,716	7,483,788	1.86%
Bulkmatic Transport	1,575	772,082	2,370,290	0.07%
Buske Lines Inc (Purchased by Gordon Trucking)	77,630	6,270,763	19,251,244	0.40%
C & K Trucking	65,368	1,147,898	3,524,045	1.85%
C D N Logistics Inc	330,266	10,907,460	33,485,904	0.99%
Cassen Transport Co	369,911	4,772,390	14,651,238	2.52%
Central Transport, LLC (Fleet Fuel)	245,481	12,203,160	37,463,701	0.66%
Commonwealth Express	71,010	3,302,621	10,139,045	0.70%
Compass Funding Solutions	151,152	2,169,128	6,659,222	2.27%
Dana Transport	186,300	3,158,557	9,696,771	1.92%
Decker	923,099	17,610,580	54,064,480	1.71%
Dick Lavy	175,565	6,184,474	18,986,336	0.92%
Dillon Transport Inc	220,981	7,200,778	22,106,390	1.00%
DOT Transportation	261,896	7,613,733	23,374,161	1.12%
Doug Marquardt/Skyway Transportation	125,431	2,059,463	6,322,552	1.98%
Dynamic Transit	69,137	2,133,729	6,550,547	1.06%
Equity Transportation	214,513	16,374,723	50,270,401	0.43%
Falcon Transport Co	285,669	30,029,682	92,191,124	0.31%
First Choice Logistics	23,480	746,343	2,291,274	1.02%
Foltz Trucking Inc	18,802	2,697,509	8,281,352	0.23%
Fremont Contract Carriers	78,507	1,123,166	3,448,120	2.28%
G & P Trucking	415,364	11,795,859	36,213,286	1.15%
Grand Island Express	12,082	3,347,233	10,276,005	0.12%
Gretna Enterprises LLC	23,044	1,344,172	4,126,609	0.56%
Halvor Lines Inc	125,429	2,955,339	9,072,891	1.38%
HC Parrish	21,150	1,092,795	3,354,881	0.63%
Hill Transportation Inc	10,398	1,369,140	4,203,261	0.25%
Holland Transport	468,180	11,372,400	34,913,269	1.34%
Honey Transport	64,646	3,186,277	9,781,869	0.66%
Iowa Motor Truck	37,415	1,676,042	5,145,449	0.73%
JKC Trucking	89,758	2,728,438	8,376,306	1.07%
J-Mar Enterprises	45,476	3,194,178	9,806,126	0.46%
JTL Trailers/Carriers	113,988	1,944,841	5,970,660	1.91%
K&S Transport Services	15,023	346,667	1,064,268	1.41%
Kohler	178,346	2,902,718	8,911,343	2.00%
LEASEWAY AUTO TRANSPORT (PTS Inc)	49,494	1,428,182	4,384,518	1.13%
M Brothers/Safe Logistics	22,460	243,648	748,001	3.00%
Madden	188,774	5,180,554	15,904,300	1.19%

**Exhibit 3 - SVRS Losses as a Percentage of Fuel Expenditures**

Customer	SVRS Losses <sup>1</sup>	Total Gallons - Customer Specific Loss Period	Estimated Fuel Expenditures	SVRS Losses as a Percentage of Fuel Expenditures
Merit Transportation Co Inc	26,653	1,406,058	4,316,598	0.62%
Midwest Logistics Systems	413,815	29,843,421	91,619,302	0.45%
Midwest Refrigerated	85,727	1,926,254	5,913,599	1.45%
MM Global/M&M Transport	50,769	2,069,844	6,354,422	0.80%
Mobility Network	85,921	2,340,136	7,184,219	1.20%
Nationwide Transportation Inc	84,253	2,499,313	7,672,890	1.10%
Paragon Motor Lines Inc	38,307	820,337	2,518,435	1.52%
Pohl Transportation Inc	54,691	6,725,606	20,647,610	0.26%
Prima Express Inc	35,835	1,487,001	4,565,092	0.78%
Progressive Transportation	20,204	1,296,269	3,979,547	0.51%
Queen Transportation	56,564	1,388,826	4,263,696	1.33%
R&L Carriers, Wilmington, OH	187,797	4,789,661	14,704,259	1.28%
Regal Beloit Logistics LLC (Marathon)	70,607	1,741,093	5,345,155	1.32%
Rite Logistix (Kozy's)	107,367	4,233,025	12,995,387	0.83%
Riverside	425,298	10,923,521	33,535,210	1.27%
Roger's Trucking (Tankstar)	99,680	6,116,667	18,778,167	0.53%
Rubber Duckling	69,031	1,420,295	4,360,304	1.58%
Ryder Intergrated Logistics/Ryder Truck Rental Inc	78,627	1,338,085	4,107,921	1.91%
Sharkey/Sysco/Shipper's Rental	565,940	17,479,703	53,662,688	1.05%
Smith Trucking Inc.	46,548	1,266,236	3,887,344	1.20%
Store & Haul Inc	8,997	496,935	1,525,590	0.59%
Sue Vinjie	182,758	2,290,407	7,031,550	2.60%
Transco Lines	248,299	4,136,657	12,699,537	1.96%
Tri-Hi Transportation	133,382	3,385,750	10,394,253	1.28%
Trio Trucking Inc	58,054	2,423,694	7,440,742	0.78%
TTI Inc.	31,194	2,139,710	6,568,911	0.47%
W N Morehouse Truck Line Inc	84,278	2,781,870	8,540,342	0.99%
Warren Transport	128,022	6,772,882	20,792,747	0.62%
Wiseway Motor Freight Inc	10,760	425,675	1,306,822	0.82%
Total	10,405,835	363,586,123	1,116,209,396	0.93%

Source: the Government's Notice of No Objection to Presentence Investigation Report for Defendant Hazelwood filed August 1, 2018.



Exhibit 4 - SVRS Losses as a Percentage of Annual Revenue

Company Name	SVRS Losses <sup>1</sup>	Number of Attribution Months	Average Annual SVRS Loss	Annual Revenue <sup>2</sup>	Average Annual SVRS Losses as a Percentage of Revenue
A G Trucking	25,005	31	9,679	34,000,000	0.03%
Amerifreight	6,733	1	80,796	20,800,000	0.39%
Apex Express Inc	6,028	15	4,822	11,130,000	0.04%
Area Transportation Company	81,570	43	22,764	123,930,000	0.02%
AV Transportation	24,760	24	12,380	7,310,000	0.17%
Beelman Truck Co	16,878	41	4,940	111,340,000	0.00%
Benefit Trucking	164,252	24	82,126	7,280,000	1.13%
Bison Transport	221,039	13	204,036	244,110,000	0.08%
Black Horse Carriers	224,853	41	65,811	121,950,000	0.05%
B P Express Inc	201,303	40	60,391	14,790,000	0.41%
Bulkmatic Transport	1,575	5	3,780	410,620,000	0.00%
Buske Lines Inc (Purchased by Gordon Trucking)	77,630	34	27,399	52,350,000	0.05%
C & K Trucking	65,368	28	28,015	34,100,000	0.08%
C D N Logistics Inc	330,266	44	90,073	68,793,000	0.13%
Cassen Transport Co	369,911	45	98,643	136,050,000	0.07%
Commonwealth Express	71,010	16	53,258	26,150,000	0.20%
Dana Transport	186,300	12	186,300	285,670,000	0.07%
Decker	1,062,583	58	219,845	135,359,000	0.16%
Dick Lavy	175,565	60	35,113	48,150,000	0.07%
DOT Transportation	261,896	30	104,758	55,830,000	0.19%
Doug Marquardt/Skyway Transportation	125,431	24	62,716	13,830,000	0.45%
Dynamic Transit	69,137	14	59,260	30,400,000	0.19%
Equity Transportation	214,513	60	42,903	64,250,000	0.07%
Falcon Transport Co	285,669	60	57,134	387,480,000	0.01%
First Choice Logistics	23,480	14	20,126	15,910,000	0.13%
Foltz Trucking Inc	18,802	21	10,744	4,980,000	0.22%
Fremont Contract Carriers	78,507	12	78,507	70,708,000	0.11%
G & P Trucking	415,364	54	92,303	99,153,000	0.09%
Grand Island Express	12,082	10	14,498	38,731,000	0.04%
Hill Transportation Inc	10,398	16	7,799	11,910,000	0.07%
Honey Transport	64,646	11	70,523	14,843,000	0.48%
Iowa Motor Truck	37,415	21	21,380	9,480,000	0.23%
JKC Trucking	89,758	9	119,677	75,000,000	0.16%
JTL Trailers/Carriers	113,988	45	30,397	12,300,000	0.25%
Midwest Logistics Systems	413,815	48	103,454	78,600,000	0.13%
Nationwide Transportation Inc	84,253	24	42,127	11,340,000	0.37%
Pohl Transportation Inc	54,691	49	13,394	11,230,000	0.12%
R&L Carriers, Wilmington, OH	187,797	60	37,559	3,671,030,000	0.00%
Riverside	425,298	31	164,631	101,880,000	0.16%
Roger's Trucking (Tankstar)	99,680	22	54,371	10,770,000	0.50%

**Exhibit 4 - SVRS Losses as a Percentage of Annual Revenue**

Company Name	SVRS Losses <sup>1</sup>	Number of Attribution Months	Average Annual SVRS Loss	Annual Revenue <sup>2</sup>	Average Annual SVRS Losses as a Percentage of Revenue
Ryder Intergrated Logistics/Ryder Truck Rental Inc	78,627	2	471,762	1,259,290,000	0.04%
Smith Trucking Inc.	46,548	8	69,822	7,030,000	0.99%
Store & Haul Inc	8,997	30	3,599	5,050,000	0.07%
Sue Vinjie	182,758	38	57,713	11,640,000	0.50%
Transco Lines	248,299	10	297,959	110,330,000	0.27%
Tri-Hi Transportation	133,382	35	45,731	16,590,000	0.28%
Trio Trucking Inc	58,054	41	16,991	6,550,000	0.26%
Warren Transport	128,022	31	49,557	110,428,000	0.04%
Wiseway Motor Freight Inc	10,760	8	16,140	49,730,000	0.03%

**Average Annual Customer Revenue Amount** \$ 168,575,000.00

**Average Annual Customer Revenue Amount (conservatively assuming that Customers where my data sources had no data had ZERO Revenue)** \$ 111,623,986.49

<sup>1</sup> Data obtained from the Government's Notice of No Objection to Presentence Investigation Report for Defendant Hazelwood filed August 1, 2018.

<sup>2</sup>

Revenue amounts were obtained from Standard & Poors Capital IQ and Dun & Bradstreet. These sources did not possess revenue data for the following Customers: ATA Transportation, Central Transport, LLC (Fleet Fuel), Compass Funding Solutions, Dillon Transport Inc., Gretna Enterprises LLC, Halvor Lines Inc, Holland Transport, J-Mar Enterprises, K&S Transport Services, Leaseway Auto Transport (PTS Inc.), M Brothers/Safe Logistics, Madden, Merit Transportation Co Inc, Midwest Refrigerated, MM Global/M&M Transport, Mobility Network, Paragon Motor Lines Inc, Prima Express Inc, Progressive Transportation, Rite Logistix (Kozy's), Rubber Duckling, Sharkey/ Sysco/Shipper's Rental, and W N Morehouse Truck Line Inc. Kohler, Regal Beloit Logistics LLC (Marathon) and TTI Inc., whose primary lines of business were not trucking, were also conservatively excluded as their revenues were \$7.5 billion, \$3.5 billion and \$4.2 billion, respectively.

<sup>3</sup> Figures of Decker include its subsidiary B-T.